

REMARKS

Upon entry of this amendment, Claims 1, 12, 14-21 and 23 will be pending in the application.

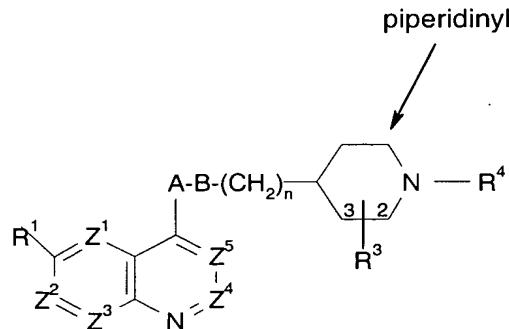
Claims 15-20 are being amended to expressly recite that the compound referred to is that of formula (I) of claim 1, or a pharmaceutically acceptable derivative thereof, subject to any further limitations in the amended claim. Claim 1 is being amended to correct typographical errors. Claim 21 is being amended to reinstate the two compounds which were inadvertently deleted in error in the amendment mailed July 11, 2005, and to correct typographical errors. Claim 23 is being amended to eliminate redundant language.

Applicants request consideration and entry into the record of the following amendments and remarks.

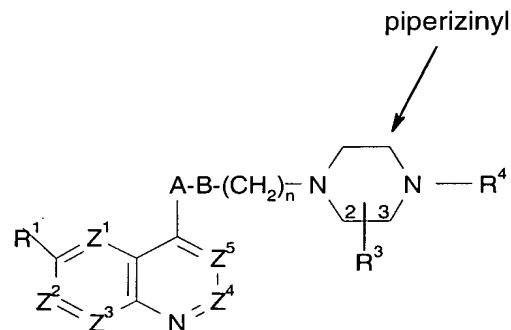
Rejection Alleging Obviousness-Type Double Patenting

Claims 1, 12, 14-21 and 23 are provisionally rejected for alleged obviousness-type double patenting over claims 1-10 of US Patent No. 6,911,442 B1. The Examiner alleges that the claims are not patentably distinct from each other because the patented application teaches compounds of Formula I and pharmaceutical compositions comprising such compounds, and the present application teaches method of use claims containing the instant compounds and compositions of the patented application. The Examiner concludes that this makes the patented compounds and compositions an obvious variation of the present claims. The Examiner further asserts that the patent's claim 10 is broadly encompassed by the present application's method of treatment of bacterial infections.

Applicants respectfully traverse. The present claims require a compound comprising a piperidinyl linking moiety:



In contrast, the patented claims do not teach or suggest a compound having such a moiety. Rather, the patented claims recite a compound comprising a piperizinyl linking moiety:



Thus, the present application does not claim a method of using compounds and compositions of the patented application, and the patent's claim 10 is not encompassed by the present claims. There is no overlap between the present claims and the patent claims, and the claims are patentably distinct.
Reconsideration and withdrawal of the rejection is respectfully requested.

Rejection Under 35 USC § 112, 2nd Paragraph

The Examiner has rejected claim 22 under 35 USC § 112, 2nd Paragraph as allegedly being indefinite for failing to recite a formula (1A). Applicants respectfully traverse. However, it is noted that claim 22 has been canceled, such that this rejection is moot.

Conclusion

In view of the above comments, Applicants believe that the present claims are in condition for allowance and earnestly solicit the same.

Should the Examiner have any questions or otherwise wish to discuss any aspect of this case, the Examiner is encouraged to contact the undersigned attorney at the number listed below.

Respectfully submitted,



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